IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

THURSDAY, THE 12TH JULY 2007 / 21ST ASHADHA 1929

WP(C).No. 7677 of 2007(L)

PETITIONER:

K.J.MICHAEL, KUSUMAVILAS, HOUSE
NO.X/102, PERUMBAVOOR, ERNAKULAM DISTRICT 683 542.

BY ADV. SRI.ALEXANDER THOMAS

RESPONDENTS:

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1. STATE OF KERALA REP. BY ITS SECRETARY
TO GOVERNMENT OF KERALA,
GENERAL EDUCATION DEPARTMENT,
GOVERNMENT SECRETRIAT BUILDINGS,
THIRUVANANTHAPURAM-01.

2. DISTRICT EDUCATIONAL OFFICER (DEO),
EDUCATION DEPARTMENT,ERNAKULAM.

3. ASSISTANT EDUCATIONAL OFFICER (AEO),
EDUCATION DEPARTMENT,MATANCHERRY,
ERNAKULAM.

4. HEADMISTRESS, ST.MARY'S LOWER PRIMARY
SCHOOL, CHELLANAM, ERNAKULAM DISTRICT.

5. CORPORATE EDUCATION AGENCY,
OF DIOCESE OF COCHIN, REP. BY ITS
GENERAL MANAGER, DIOCESE OF COCHIN,
COCHIN-682 005

BY ADV. SRI.JOSEY XAVIER
GOVERNMENT PLEADER SRI.T.T.MUHAMOOID.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX (WP. 7677/2007)

EXT.P1: TRUE COPY OF GOVT. ORDER DT. 24/3/1994.

DO. DT. 18/9/1996.

EXT.P3: TRUYE COPY OF REPRESENTATION DT. 22/2/2006.

EXT.P4: TRUE COPY OF REPRESENTATION DT. ¾/2006.

EXT.P4(A): TRUE COPY OF ENDORSEMENT DT. 10/4/2006.

EXT.P5: TRUE COPY OF LETTER DT. 25/4/2006.

EXT.P6: TRUE COPY OF LETTER DT. 11/7/2006.

EXT.P7: TRUE COPY OF LETTER DT. 10/8/2006.

EXT.P7(A): TRUE COPY OF FORM PRESCRIBED IN THE CIRCULAR.

EXT.P7 (B): TRUE COPY OF CHECK LIST.

EXT.P7(C): TRUE COPYF OF STATEMENT OF PETR. DT. 30/4/2006.

EXT.P7(D): TRUE COPY OF DECLARTION OF PETR.

EXT.P7(E): TRUE COPY F FPETITIONER'S LEAVE APPLICATION L

EXT.P8: TRUE COPY OF ENDORSEMENT DT. 29/8/2006.

EXT.P9: TRUE COOPY OF PROPOSAL DT. 15/9/2006.

EXT.P9(A): TRUE COPY OF PETITIONER'S REQUEST DT. 25/4/2006.

EXT.P9(B): TRUE COPY OF CERTIFICATE

EXT.P9(C): TRUE COPY OF DECLARATION.

EXT.P10: TRUE COPY OFLETTER DTL 6/11/2006.

EXT.P11: TRUE COOPY OF LETTER DT. 8/11/2006.

EXT.P12: TRUE COPY OF LETTER DT. 21/11/2006.

EXT.P12(A): TRUE COPY OF LETTER DT. 6/12/2006.

EXT.P12(B): TRUE COPY OF REPRESENTATION DT. 16/2/2007.

A.K. Basheer, J.

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W.P(C) No. 7677 of 2007

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Dated this the 12th day of July, 2007.

J U D G M E N T

Petitioner is a retired Music Teacher. His grievance is that the respondents are not taking effective steps to consider his request to regularise the period of his absence by treating it as leave without allowances. Resultantly his retiral benefits are also not being sanctioned and disbursed.

2. In view of the limited prayer made by the learned counsel for the petitioner at the Bar and also in the nature of the reliefs sought for in the writ petition, I do not deem it necessary to refer to the various contentions raised by him at this stage.

3. It appears that petitioner had availed of leave without allowances to enable him to take up an employment abroad with effect from October 12, 1993. It is on record that he was granted leave for 2 years initially. Later it was extended for a further period of 4 years terminating on October 11, 1999. But petitioner could not rejoin duty immediately till the date of his superannuation on April 15, 2000. Thus his absence from October 12, 1999 till April 14, 2000 was not regularised.

4. The first prayer in the writ petition is to declare that respondents are bound to regularise the above period as leave without allowances. However learned counsel submits that petitioner will be satisfied if appropriate directions are issued to respondents in respect of prayers (b) and (c) which are extracted hereunder:

"(b) To issue a Writ of Mandamus or any other appropriate Writ, order or direction, directing the respondents 1-3 to ensure that respondents 4 & 5 forward all the necessary papers and details required for the proposal for regularisation by grant of LWA for the above said period and to further direct respondents 4 & 5 to submit the details and their counter signatures in Ext.P7(a) format, Ext.P7(b) check list, Ext.P7(d) certificate, Ext.P7(e) leave application, Ext.P9(b) certificate and no liability certificate, Ext.P9(c) declaration etc. expeditiously and to forward the same to the departmental authorities.

(c) To issue a Writ of Mandamus or any other appropriate Writ, order or direction, directing the respondents 1-3 to regularise the period from 12-10-1999 to 14-4-2000 as Leave Without Allowances (LWA) in the case of the petitioner, with the condition that the said period will not count for any service benefits, including pension."

5. Having heard learned counsel for the petitioner and the learned Govt. Pleader, I am satisfied that the writ petition can be disposed of with a direction to respondents 4 and 5 to forward all the necessary papers and details for the purpose of considering the

question of regularisation of the period of absence of the petitioner from October 12, 1999 to April 14, 2000 as leave without allowances, after countersigning Ext.P7(a) format, Ext.P7(b) check list, Ext.P7(d) certificate, Ext.P7(e) leave application, Ext.P9(b) certificate and no liability certificate, Ext.P9(c) declaration etc. to the departmental authorities. On receipt of the same, respondent No.3 shall forward them through respondent No.2, the District Educational Officer to the competent authority.

6. It is made clear that I have no considered the merit of any of the contentions raised by the petitioner. Respondent No.1 shall take a decision in the matter in the light of the contentions raised by the petitioner in Ext.P4 and strictly on its merit and in accordance with law, as expeditiously as possible, at any rate within 3 months from the date of receipt of a copy of this judgment, after affording opportunity of hearing to the petitioner. The authority shall also ensure that the admissible retiral benefits payable to the petitioner are disbursed to him within a further period of 2 months from the date of the order to be passed by respondent No.1 on Ext.P4.

A.K. Basheer
Judge.

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